REMARKS/ARGUMENTS

Applicants would like to thank the Examiner for the careful consideration given the present application. Reconsideration of the application is respectfully requested in view of the remarks and amendments provided herein.

Claims 1, 2, 5-7, 16 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application 2005/0173401 (US '401) in view of British Patent 2,252,645 (GB '647) and US Patent 6,949,723 (US '723). Traversal of this rejection is made for at least the following reasons. Neither US '401, GB '647, nor US '723, alone or in combination, teach or suggest a central processor configured to control range top heating means and first and second range-chamber heating means, wherein at least one of the range-top heating means and the second range-chamber heating means includes a warming element that operates on a duty cycle. GB '647 merely discloses a central processor for controlling an oven heating element and a plurality of surface heating elements, *all of which operate in the same manner*, namely switching a supply of electrical energy based on a response from a temperature sensor. The Examiner argues that it would have been obvious to adapt the CPU of GB '647 to the range of US '401 since GB '647 teaches such to improve power usage efficiency. It is submitted that the Examiner is mischaracterizing the teachings of GB '647. GB '647 is directed to improving the consumption of electrical energy with respect to maintaining the temperature at a user set temperature and to minimize fluctuation above and below the preset value. There is nothing within GB '647 which discloses, teaches, or suggests improved power usage efficiency with respect to operating all heating devices with the same central processor. As stated in the Background section of the present application, prior art ranges required a separate processor from cooktop elements and for warming drawers and particularly to process functions input by the operator.

It is well established that the prior art items themselves must suggest the desirability and thus the obviousness of making the combination without the slightest recourse to the teachings of the patent or application. Without such independent suggestion, the prior art is to be considered merely to be inviting unguided and speculative experimentation which is not the standard with which obviousness is determined. *Amgen, Inc. v. Chugai Pharmaceutical Co. Ltd.*, 927 F.2d 1200, 18 USPQ2d

1016 (Fed. Cir. 1991); *In re Laskowski*, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989); *In re Dow Chemical Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1532 (Fed. Cir. 1988); *Hodosh v. Block Drug*, 786 F2f at 1143 n. 5., 229 USPQ at 187 n. 4.; *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1985). Notably, ***proof that the separate elements exist in the prior art is inadequate to establish obviousness***. *Arkie Lures Inc. v. Gene Larew Tackle Inc.*, 43 USPQ2d 1294, 1297 (Fed. Cir. 1997). In other words, the references provided by the Examiner merely disclose that an oven can include cooktop heating elements, oven heating elements, and a warmer drawer heating element (US '401); that a central processor unit can control cooktop elements and a heating element of an oven that function in identical manners (GB '647); and that warming elements exist and can operate on a duty cycle (US '723). However, the Examiner has not shown motivation to combine these teachings in the manner claimer. Further, it is submitted that even if such motivation existed, one skilled in the art at the time of the filing of the present application would have still likely included a separate processor for at least controlling the duty cycle of the warming drawer, as was typically done in the industry.

As further support, the Federal Circuit has consistently held that

> …'***virtually all [inventions] are combinations of old elements***.' Therefore an examiner may often find every element of a claimed invention in the prior art. ***If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue.*** Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. ***Such an approach would be 'an illogical and inappropriate process by which to determine patentability.'***
> *In re Rouffet*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453 (Fed. Cir. 1998) (*citations omitted*).

For at least the reasons discussed herein, withdrawal of this rejection is respectfully requested.

Claims 3, 4, 8-15 and 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US '401 in view of GB '647 and US '723, as applied to claims 1, 2, 5-7, 16 and 17 above, and further in view of US Patent No. 6,198,080 (US '080). Traversal of this rejection is made for at least the following reasons. Claims 3, 4, and 18-22 depend from independent claims 1 and 16, which are believed to be allowable over US '401, GB '647, and US '723 for at least the reasons discussed above. US '080 does not make up for these aforementioned deficiencies. While, US '080 discloses a surface heating element that can operate as a warming element, there is no motivation to make the combination suggested by the Examiner. Again, the Examiner is improperly using hindsight in which the subject application provides the missing teaching or suggestion. See, for example, Monarch Knitting Machinery Corp. v. Sulzer Morat GmbH, 45 USPQ2d 1977 (Fed. Cir. 1998). Accordingly, the combination of US '401, GB '647, US '723, and US '080 does not render obvious claims 1 or 16 or claims 3,4, and 18-22, which depend therefrom.

Regarding claims 18 and 23, neither US '401, GB '647, US '723, nor US '080, alone or in combination teaches or suggests means for operatively connecting a centralized processor with first, second, third and fourth heating means for the purpose of communicating with the heating means, wherein at least one of the first, second, third, and fourth heating means operates on a duty cycle. As discussed above with respect to claims 1 and 16, in conventional ranges, separate control systems are used to operate the oven, the warmer drawer, and/or the warmer zone features. The cited references do not contradict this knowledge. As discussed above, there is no motivation to make the proposed combination. Further, even if such combination were made, there is nothing within the references that disclose teach or suggest using a central processor to control various heating elements operating in different manners as well as receiving operator input to control such elements. Withdrawal of this rejection is requested.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 35483US1.

Respectfully submitted,
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